

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

-----X  
SAMANTHA MCGRATH, AS ADMINISTRATOR OF  
THE ESTATE OF MICHAEL McGRATH,  
and INDIVIDUALLY

Plaintiffs,

-against-

INDUSTRIAL WASTE TECHNOLOGIES and  
JASON SYKES,

Defendants.  
-----X

Index No.:

**SUMMONS**

**Plaintiff designates:**

**Bronx County as the place of  
trial**

**Plaintiff's basis for venue is:**

**Accident Location – E. Tremont  
Avenue and Waterbury Avenue,  
Bronx, NY**

**TO THE ABOVE NAMED DEFENDANT:**

***YOU ARE HEREBY SUMMONED*** to answer the Complaint of the Plaintiff in this action, which is served herewith upon you, and to Answer upon the undersigned attorneys for the Plaintiff, within **twenty (20) days** after the service of the Summons and Complaint, exclusive of the day of service, or within **thirty (30) days** if such service is made by any method other than personal delivery upon you and in case of your failure to appear or answer, judgment will be taken against you by default for the relief demanded in the Complaint.

Dated: New York, New York  
December 9, 2019

**ZAREMBA BROWN, PLLC**

By: 

Andrew Kreidman, Esq.

Attorney for Plaintiff

40 Wall Street, 52<sup>nd</sup> Floor

New York, New York 10005

(212) 380-6700

TO: INDUSTRIAL WASTE TECHNOLOGIES, INC.  
306 Ramapo Valley Rd  
Oakland, NJ 07436

JASON SYKES  
2 Burlington Ave  
Paterson, NJ 07502

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

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SAMANTHA MCGRATH, AS ADMINISTRATOR OF  
THE ESTATE OF MICHAEL McGRATH,  
and INDIVIDUALLY

**Index No.:**

**VERIFIED COMPLAINT**

Plaintiffs,

-against-

INDUSTRIAL WASTE TECHNOLOGIES and  
JASON SYKES,

Defendants.

-----X  
Plaintiff, SAMANTHA MCGRATH, individually and as administrator of the estate of the decedent, MICHAEL MCGRATH, by her attorneys, ZAREMBA BROWN PLLC, complaining of the Defendants INDUSTRIAL WASTE TECHNOLOGIES, INC. and JASON SYKES, respectfully alleges, upon information and belief:

1. On September 16, 2019, MICHAEL MCGRATH, the decedent ("Decedent"), died.
2. On November 15, 2019, Letters of Administration With Limitations for the estate of Decedent were issued by the Surrogate's Court of the County of Bronx, State of New York, thereby appointing Plaintiff SAMANTHA MCGRATH ("Plaintiff"), Decedent's daughter, as Administrator of Decedent's Estate.
3. Plaintiff is the legal, court-appointed administrator for the estate of Decedent.
4. At all times herein mentioned, and at the time of the commencement of this action, Plaintiff was and still is a resident of the County of Bronx, City and State of New York, residing at [REDACTED]

5. At all relevant times herein mentioned, and until his death on September 16, 2019, Decedent was a resident of the County of Bronx, City and State of New York, residing at [REDACTED]

6. At all times herein mentioned, Defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC., was and still is a professional corporation duly organized and existing under and by virtue of the laws of the State of New Jersey, with a principal office in Oakland, New Jersey.

7. At all times herein mentioned, Defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC., was and still is a foreign corporation with its principal place of business in Oakland, New Jersey.

8. At all times herein mentioned, Defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC., was and still is a duly authorized foreign corporation transacting business in the State of New York.

9. At all times herein mentioned, Defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC., does and/or solicits business within the state of New York.

10. At all times herein mentioned, Defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC., derives substantial revenue from goods used or consumed or services rendered in the State of New York.

11. At all times herein mentioned, Defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC., expected or reasonably should have expected its acts and business activities to have consequences within the State of New York.

12. At all times herein mentioned, Defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC., derives substantial revenues from interstate or international commerce.

13. At all times herein mentioned, Defendant, JASON SYKES, was and still is a resident of the City of Paterson and State of New Jersey.

14. That on September 16, 2019, Defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC., was the registered owner of a Kenworth truck bearing New Jersey State license plate number AW418A.

15. That on September 16, 2019, Defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC., was the lessor of a Kenworth truck bearing New Jersey State license plate number AW418A.

16. That on September 16, 2019, Defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC., was the lessee of a Kenworth truck bearing New Jersey State license plate number AW418A.

17. That on September 16, 2019, Defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC., operated a Kenworth truck bearing New Jersey State license plate number AW418A.

18. That on September 16, 2019, Defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC., controlled a Kenworth truck bearing New Jersey State license plate number AW418A.

19. That on September 16, 2019, Defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC., maintained a Kenworth truck bearing New Jersey State license plate number AW418A.

20. That on September 16, 2019, Defendant, JASON SYKES was employed by INDUSTRIAL WASTE TECHNOLOGIES, INC.

21. That on September 16, 2019, Defendant, JASON SYKES, was the operator of a Kenworth truck bearing New Jersey State license plate number AW418A.

22. That on September 16, 2019, Defendant, JASON SYKES, was operating the Kenworth truck bearing New Jersey State license plate number AW418A, with the knowledge of defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC.

23. That on September 16, 2019, Defendant, JASON SYKES, was operating the Kenworth truck bearing New Jersey State license plate number AW418A, with permission of the defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC.

24. That on September 16, 2019, Defendant, JASON SYKES, was operating the Kenworth truck bearing New Jersey State license plate number AW418A, with the express consent of defendant, INDUSTRIAL WASTE TECHNOLOGIES, INC.

25. That on September 16, 2019, Defendant, JASON SYKES, was operating the Kenworth truck bearing New Jersey State license plate number AW418A, with the implied consent of defendant INDUSTRIAL WASTE TECHNOLOGIES, INC.

26. At all times herein mentioned, the intersection of East Tremont Avenue and Waterbury Avenue, in the County of Bronx, City and State of New York, was and still is a public roadway.

### **FIRST CAUSE OF ACTION**

27. Plaintiff repeats and reiterates each of the above allegations contained in paragraphs 1-27 as if fully set forth herein.

28. On September 16, 2019, at approximately 7:48 a.m., Decedent, operating a motorcycle, was on the roadway at or about said location, when he was struck by the aforesaid



motor vehicle owned, leased, operated, controlled, and/or maintained by INDUSTRIAL WASTE TECHNOLOGIES, INC. and operated by JASON SYKES.

29. That as a result of Defendants' negligence, carelessness, recklessness, and culpable conduct, as well as violation of all applicable laws, statutes, ordinances, rules and regulations, including but not limited to the Vehicle and Traffic Law(s) of the State of New York, the aforesaid motor vehicle owned, leased, operated, controlled, and/or maintained by Defendant INDUSTRIAL WASTE TECHNOLOGIES, INC., and operated by Defendant JASON SYKES, struck Decedent, causing Decedent to suffer serious, severe, catastrophic, permanent and disabling physical and emotional injuries and damages, conscious pain and suffering, pre-death terror, fear of impending death, and death.

30. That Plaintiff's damages, and Decedent's injuries, damages and death, were caused solely by reason of the negligence, recklessness, carelessness, and culpable conduct on the part of Defendant INDUSTRIAL WASTE TECHNOLOGIES, INC. in its ownership, lease, operation, control, and/or maintenance, of the aforesaid vehicle, as well as by Defendant JASON SYKES's violation of the applicable laws, statutes, ordinances, rules and regulations, including but not limited to the Vehicle and Traffic Law of the State of New York, without any negligence or culpable conduct on the part of Decedent contributing thereto.

31. That as a result of the foregoing, Decedent sustained a serious injury, death, and/or economic loss greater than basic economic loss, as defined in §5102 of the Insurance Law of the State of New York.

32. That the limitations on liability, as set forth in CPLR §1601, do not apply to this action.

33. That this action falls within one or more of the exceptions as set forth in CPLR §1602.

34. That by reason of the foregoing, the estate of Decedent has been damaged for an amount which exceeds the jurisdictional limits of all lower Courts, which would otherwise have jurisdiction over this matter.

### **SECOND CAUSE OF ACTION**

35. Plaintiff repeats and reiterates each of the above allegations contained in paragraphs 1-35, as if fully set forth herein.

36. That by way of the aforementioned acts of negligence, Defendants caused the wrongful death of Decedent on September 16, 2019.

37. That as a result of the aforementioned negligence and violation of all applicable laws of Defendants and Decedent's death, Plaintiff and other distributees and next-of-kin of Decedent have suffered substantial pecuniary losses and damages, including but not limited to the loss of financial and monetary support and the deprivation of Decedent's support, comfort, services, companionship, guidance, advice, counsel, love and affection.

38. By reason of the death of Decedent, his estate became liable for and did expend monies for medical, funeral, and other expenses.

39. Decedent's injuries, damages and death, and the resulting damages to Decedent's distributees, were caused solely by reason of the negligence, carelessness, recklessness, and culpable conduct on the part of Defendant INDUSTRIAL WASTE TECHNOLOGIES in its ownership, lease, operation, control, and/or maintenance of the aforesaid vehicle, as well as by Defendant JASON SYKE's violation of the applicable laws, statutes, ordinances, rules and

regulations, including but not limited to the Vehicle and Traffic Law of the State of New York, without any negligence or culpable conduct on the part of Decedent.

40. That this action falls within one or more of the exceptions set forth in CPLR §1602.


41. By reason of the foregoing, Decedent's distributees sustained damages in an amount that exceed the jurisdictional limits of all lower courts, which would otherwise have jurisdiction over this matter.

**WHEREFORE**, Plaintiff demands judgment for all compensatory and other damages against Defendant in an amount exceeding the jurisdictional limits of all lower Courts, which would otherwise have jurisdiction over this matter; together with the interest, costs and disbursements of this action.

Dated: New York, New York  
December 9, 2019

**ZAREMBA BROWN, PLLC**

By:

  
Andrew Kreidman, Esq.  
*Attorney for Plaintiff*  
40 Wall Street, 52<sup>nd</sup> Floor  
New York, New York 10005  
(212) 380-6700

TO: INDUSTRIAL WASTE TECHNOLOGIES, INC.  
306 Ramapo Valley Rd  
Oakland, NJ 07436

JASON SYKES  
2 Burlington Ave  
Paterson, NJ 07502



### VERIFICATION

Andrew Kreidman, an attorney duly admitted to practice law before the Courts of the State of New York, affirms as follows, with knowledge of the penalties for perjury:

1. Affirmant is the attorney for SAMANTHA MCGRATH, individually and as administrator of the estate of the decedent, MICHAEL MCGRATH, Plaintiff in the within action.

2. I am fully familiar with the facts and circumstances involved in this matter from reviewing the file regarding same maintained in the offices of the above named law firm.

3. I have read the foregoing Verified Complaint, know the contents thereof, and the same are true to the best of my knowledge.

4. Affirmant further states that the reason this Verification is made by the undersigned and not by Plaintiff because said party does not reside in New York County, where the offices of said attorneys are located.

5. The grounds of Affirmant's belief as to all matters not stated to be upon Affirmant's knowledge are investigate materials contained in the files of the above-named law firm.

Dated: New York, New York  
December 9, 2019

  
\_\_\_\_\_  
ANDREW KREIDMAN, ESQ.